

Hand-Delivered

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA

CASE NO. 1:22-cv-55-MR

FILED
CHARLOTTE, NC

MAR 14 2022

US DISTRICT COURT
WESTERN DISTRICT OF NC

WILLIAM M. HORNIAK, Ph.D.
Plaintiff,

vs.

COMPLAINT

ASHEVILLE CITY SCHOOLS Bd. of EDUC.
85 MOUNTAIN STREET
ASHEVILLE, NC 28801
SUPERINTENDENT: DR. GENE FREEMAN
HR DIRECTOR: DR. MARK DISKERSAN

Defendant(s).

A. JURISDICTION

This action is brought pursuant to Title VII of the Civil Rights Act of 1964 as amended, for employment discrimination. Jurisdiction is specifically conferred on this Court by 42 U.S.C. Section 2000e(5). Equitable and other relief are also sought under 42 U.S.C. 2000e(5)(g). Jurisdiction is also based on 28 U.S.C. Sections 1331, 1343 and 42 U.S.C. Sections 1981 et seq. Where employment discrimination based upon age is alleged, jurisdiction is conferred by 29 U.S.C. Sections 626(c)(1) and 626(e) and appropriate relief is also sought.

B. PARTIES

1. Name of Plaintiff: WILLIAM M HORNIAK
 Address: 600 SADIE DRIVE
CAMATHEWS, NC 28105

2. Name of first Defendant: ASHVILLE BOARD OF EDUCATION
 Address: 85 MOUNTAIN STREET
ASHVILLE, NC 28801

3. Name of second Defendant: DR. GENE FREEMAN (SUPERINTENDENT)
 Address: 85 MOUNTAIN STREET
ASHVILLE, NC 28801

4. Name of third Defendant: DIRECTOR OF HUMAN RESOURCES
 Address: DR. MARK DICKERSON
85 MOUNTAIN STREET
ASHVILLE, NC 28801

(Use additional sheets if necessary.)

C. NATURE OF CASE

1. The address at which I sought employment or was employed by the defendant(s) is:
ASHVILLE HIGH SCHOOL
419 MC DOWELL STREET
ASHVILLE, NC 28803

2. The discriminatory acts occurred on or about:
8/30/2000 - 4/21/2021 (Month, Day, Year)

3. I filed charges with the Equal Employment Opportunity Commission regarding the defendant's discriminatory conduct on or about:

11/17/2021 (Month, Day, Year)

4. The Equal Employment Opportunity Commission sent the attached "Notice of Right to Sue" which I received on:

12/15/2021 (Month, Day, Year)

5. The discriminatory acts that are the basis of this suit are:

- a. ☒ Failure to employ me.
- b. ☒ Failure to promote me.
- c. ☒ Termination of my employment.
- d. ☐ Demotion.
- e. ☐ Denied equal pay/work.
- f. ☐ Sexual harassment.
- g. ☒ General harassment.
- h. ☒ Other acts (Be specific: Attach an additional sheet if necessary)

1. DISCRIMINATION (DISABILITY & AGE) VIOLATION: ADA

2. WRONGFUL TERMINATION (RETALIATION &

WHISTLEBLOWER)

6. Defendant's conduct is discriminatory with respect to:

- a. ☐ my race
- b. ☐ my color
- c. ☐ my sex
- d. ☐ my religion
- e. ☐ my national origin
- f. ☒ my age

7. I believe that the defendant is still committing these acts against me.

YES ☐

NO ☒

D. CAUSE OF ACTION

1. I allege that the defendant has discriminated against me and that the following facts form the basis for my allegations:

Count 1: VIOLATION NC GEP STATUTES. ALL EMPLOYEES (NC DPI)
ARE TO BE EVALUATED 3X ANNUALLY FOR PERFORMANCE
5X IN THIS CASE, NOT ONCE - PERSON GIVEN 'POOR PERFORMANCE'

Supporting Facts: (Describe exactly what each defendant did or did not do. State the facts clearly in your own words without citing any legal authority. Use additional sheets if necessary.)

1. ALL INFORMAL EVALUATIONS WERE POSITIVE, W/O
NOTICE CONTRACT NOT RENEWED
2. POSITION PROMOTION AVAILABLE (2X) DURING TENURE
NOT CONSIDERED BUT APPLIED
3. AS VETERAN NEVER GIVEN INTERVIEWS (42)

Count 2: AGE / DISABILITY / WHISTLEBLOWER
59 - OLDEST / HIGHEST PAID BLOW LEVEL ADMIN.
FORCED TO PROHIB / DOCUMENT DISABILITY FOR
REMOTE WORK, NEVER ACKNOWLEDGED OR ADDRESSED.

Supporting Facts:

E. INJURY

How have you been injured by the actions of the defendant(s)?

- ✓ 9 MONTHS CONCURRENT UNEMPLOYMENT IN MIST
- ✓ ONE YEAR BEFORE QUALIFYING FOR RETIREMENT
- ✓ FORCED TO SALE HOME 6.5 YEARS
- ✓ 2 YEARS LOSS OF WAGES DUE RENEWAL
- ✓ ASSOCIATED HEALTH CARE COVERAGE LOSS
- ✓ EMOTIONAL / MENTAL
DAMAGES RESULTING IN MORE PHYSICAL ISSUES

F. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

Have you filed other lawsuits in state or federal court that deal with the same facts that are involved in this action? YES _____ NO ✓

If your answer is "YES", describe each lawsuit. (If there are more than one lawsuits, describe additional lawsuits on additional separate pages, using the same outline.)

1. Parties to previous lawsuits:

Plaintiff(s): N/A

Defendant(s): N/A

2. Name of court and case or docket number: N/A

3. Disposition (for example, was the case dismissed? Was it appealed? Is it still pending?)

N/A

4. Issues raised:

N/A

5. When did you file the lawsuit? N/A (Date: Month/Year)

6. When was it (will it be) decided? N/A

Have you previously sought informal or form relief from the appropriate administrative officials regarding the acts complained of in Part D?

YES _____ NO ✓

If your answer is "YES" briefly describe how relief was sought and the results. If your answer is "NO" explain why administrative relief was not sought.

NO - ATTEMPTED TO APPEAL NEW RENEWAL UNSUCCESSFULLY
IN FORMAL HEARING.

G. REQUEST FOR RELIEF

I believe I am entitled to the following relief:

2 YRS LOSS WAGES
2 YRS LOSS HEALTH / MEDICAL COVERAGE
2 YRS DENIED PROMOTION(S)
LOSS OF RESIDENCE & HOME OF 6.5 YEARS
UNEMPLOYED PAST 2 MONTHS

JURY TRIAL REQUESTED

YES ☒ NO ☐

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty that he/she is the plaintiff in the above action, that he/she has read the above complaint and that the information contained therein is true and correct. 28 U.S.C. §1746; 18 U.S.C. §1621.

Executed at _____ on 3/14/2022
(Location) (Date)



Signature

EEOC (INQUIRY) NUMBER: 430-2022-00389

Inquiry Information

REASON(S) FOR CLAIM

Date of Incident (Approximate): 06/30/2021

Reason for Complaint: Age - I am 40 years of age or older, Disability, Retaliation - I complained to my employer about job discrimination

Pay Disparity:

Location of Incident: North Carolina

Submission (initial inquiry) Date: 11/17/2021

Claim previously filed as charge with EEOC? No

Approximate Date of Filing: N/A

Charge Number: N/A

Claim previously filed as complaint with another Agency? No

Agency Name: N/A

Approximate Date of Filing: N/A

Nature of Complaint: N/A

INQUIRY OFFICE

Receiving: Charlotte District Office

Accountable: Charlotte District Office

APPOINTMENT

Appointment Date and time: 11/22/2021 02:00 PM US/Eastern

Interview Type: Phone

APPROXIMATE DEADLINE FOR FILING A CHARGE: 12/27/2021

POTENTIAL CHARGING PARTY

First Name, Middle Initial: William

Last Name: Horniak

Street or Mailing Address: 13 Miners Trace Road

Address Line 2:

City, State, Zip: BURNSVILLE, NC, 28714

Country: UNITED STATES OF AMERICA

Year of Birth: 1962

Email Address: wmhorniak@gmail.com

Home Phone Number: (704) 524-9666

Cell Phone Number:

RESPONDENT/Employer

Organization Name: ASHEVILLE CITY SCHOOLS

Type of Employer: State or Local Government that I applied to, work for, or worked for

Number of Employees: 20 or more employees

Street or Mailing Address: 85 MOUNTAIN ST

Address Line 2:

City, State, Zip Code: ASHEVILLE, NC, 28801

County: Buncombe

Phone Number: (828) 350-7000

RESPONDENT CONTACT

First and Last Name: Mark Dickerson

Email Address:

Phone Number:

Title: Human Resources Director or Owner

LOCATION OF POTENTIAL CHARGING PARTY'S EMPLOYMENT

Street or Mailing Address:

Address Line 2:

City, State, Zip Code:

County:

POTENTIAL CHARGING PARTY'S DEMOGRAPHICS

Gender: M

Disabled: I have a disability

Are you Hispanic or Latino? not hispanic or latino

Ethnicity: White,

National Origin: English

Adverse Action(s)

Notified of none renewal of contract. They claimed poor performance.

1. Violated NC Gen Statutes 14.3/ 115C-325... Never was evaluated then 20 months under contract
2. Reported illegal behavior by subordinate employees to employer and law enforcement. Nothing was done about this.
3. Retaliated for whistle owing to protect students...
4. Was asked then required to unveil/reveal private medical information as to my health and a disability from doctor for remote work purposes which was never answered why? This was/is part of the illegal and discriminatory entire issue... They violated HIPPA laws as I did not sign off or approve of this. There was no response to a letter I sent as to why....
5. I was the 3rd and last administrator fired or removed from then positions at same location.

Supplemental Information

What Reason(s) were you given for the action taken against you?

No reason when told contract non renewed. Once I filed an appeal a letter and had hearing I was then sent a letter prior to the hearing stating due to poor work performance... I received no formal or informal evaluations (Gen. Statute mandated). Noe was I ever told verbally or in writing my work performance was poor.

This entire ordeal was simply political and to clean the proverbial house at the apparent wishes of my Supervisor, as he did to two other colleagues holding the same positions. It was wanton, capricious, and nefarious in intent and motivation. This has caused my wife and I to lose our home, uninsured, and still seeking

employment 5 months out. They violated NC General Statute and exercised at will clause which is not part of the contractual agreement without ethical cause.

Was anyone in a similar situation treated the same, better, or worse than you?

Yes, I believe so, my 2x colleagues holding the same position were let go (1x transferred and ultimately leaving) for reasons unbeknownst to me before I was..

Please provide name(s) and email and/or phone number of anyone who will support your claim, and briefly describe the information this person will provide.

1. Dr. Sherry Hicks / 8283330166 / spooles2322@gmail.com

(I am confident and under the impression and understanding both know the motives and the why behind this decision).

2. Dr. Shane Cassida / shane.cassida@ashevillecityschools.net / 8283506131

(I am confident and under the impression and understanding both know the motives and the why behind this decision).

3. Dr. Dana Ayers / truanayers@gmail.com / 8285073353 /

(I am confident and under the impression and understanding both know the motives and the why behind this decision).

4. Ms Pamela Washington / pamela.washington@asevillecityschools.net / 8283502500

(I am confident and under the impression and understanding both know the motives and the why behind this decision).

Please tell us any other information about your experience?

I have already provided all relative, to include specific details, in the original filing.

I am unable to make the appt for the interview!? Says no apps available out the next 30 days? Was on hold for 61 minutes today. Finally, spoke to a person who was inconsiderate. The phone call dropped and he made NO EFFORT to call back to resolve this.